

06-1519ghmMeansDWOP.wpd

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FREDERICK DONNELL MEANS,	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO. H-06-1519
	§	
NATHANIEL QUARTERMAN,	§	
Respondent.	§	

ORDER ON DISMISSAL

Petitioner Frederick Donnell Means, a state inmate incarcerated in the Texas Department of Criminal Justice – Correctional Institutions Division, filed this habeas petition challenging his state court conviction. On May 22, 2006, plaintiff was notified of a deficiency in his pleadings, and was instructed to file an application to proceed *in forma pauperis* or pay the filing fee on or before June 23, 2006. Petitioner was warned that his failure to timely comply may result in the dismissal of this case without further notice. To-date, petitioner has neither filed an application to proceed *in forma pauperis* or paid the filing fee.

Petitioner's failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998). Upon a proper

showing, relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure.

This action is **DISMISSED WITHOUT PREJUDICE** for want of prosecution.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on July 13, 2006.

A handwritten signature in black ink, appearing to read 'G. Miller', is written over a horizontal line.

GRAY H. MILLER
UNITED STATES DISTRICT JUDGE